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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/960,114	09/21/2001	Kenneth B. Higgins	5113B 5752	
75	90 05/03/2006		EXAMINER	
Milliken & Company P.O. Box 1927			JUSKA, CHERYL ANN	
Spartanburg, SC 29304			ART UNIT	PAPER NUMBER
			1771	
			DATE MAILED: 05/03/2006	5

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)				
	09/960,114	HIGGINS ET AL.				
Office Action Summary	Examiner	Art Unit				
	Cheryl Juska	1771				
The MAILING DATE of this communication app Period for Reply	ears on the cover sheet with the c	orrespondence address				
A SHORTENED STATUTORY PERIOD FOR REPLY WHICHEVER IS LONGER, FROM THE MAILING DA  - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication.  - If NO period for reply is specified above, the maximum statutory period w  - Failure to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION 36(a). In no event, however, may a reply be tim viil apply and will expire SIX (6) MONTHS from a cause the application to become ABANDONET	L. ely filed the mailing date of this communication. O (35 U.S.C. § 133).				
Status						
1) Responsive to communication(s) filed on 07 M	Responsive to communication(s) filed on 07 March 2006.					
·						
3) Since this application is in condition for allowar	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is					
closed in accordance with the practice under E	closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.					
Disposition of Claims						
4) ☐ Claim(s) 88,90,92-123,125-128,131 and 149 is 4a) Of the above claim(s) is/are withdray 5) ☐ Claim(s) is/are allowed. 6) ☐ Claim(s) 88,90,92-123,125-128,131, and 149 7) ☐ Claim(s) is/are objected to. 8) ☐ Claim(s) are subject to restriction and/or	vn from consideration.  9 is/are rejected.					
Application Papers						
9) The specification is objected to by the Examiner 10) The drawing(s) filed on is/are: a) access Applicant may not request that any objection to the or Replacement drawing sheet(s) including the correction 11) The oath or declaration is objected to by the Examiner	epted or b) objected to by the Edrawing(s) be held in abeyance. See on is required if the drawing(s) is obj	37 CFR 1.85(a). ected to. See 37 CFR 1.121(d).				
Priority under 35 U.S.C. § 119						
<ul> <li>12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).</li> <li>a) All b) Some * c) None of:</li> <li>1. Certified copies of the priority documents have been received.</li> <li>2. Certified copies of the priority documents have been received in Application No</li> <li>3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</li> <li>* See the attached detailed Office action for a list of the certified copies not received.</li> </ul>						
Attachment(s)  1) Notice of References Cited (PTO-892)  2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)	_					
Paper No(s)/Mail Date 6)						

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#### **DETAILED ACTION**

## Response to Amendment

1. Applicant's amendment filed March 7, 2006, has been entered. Claims 101 and 102 have been amended as requested. Claims 1-87, 89, 91, 124, 129, 130, and 132-148 are cancelled. Thus, the pending claims are 88, 90, 92-123, 125-128, 131, and 149.

## Claim Rejections - 35 USC § 103

- 2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
- 3. Claims 88, 90, 92-123, 125-128, 131, and 149 stand rejected under 35 USC 103(a) as being unpatentable over US 4,552,857 issued to Higgins in view of US 5,610,207 issued to DeSimone et al. for the reasons of record.

The amendments to claims 101 and 102 do not change the scope of the claims. as such, the rejection of said claims is maintained.

#### Response to Arguments

4. Applicant's arguments filed with the amendment of March 7, 2006, have been fully considered but they are not persuasive. Applicant reiterates previous arguments (Amendment, paragraph spanning pages 11-12 and 1<sup>st</sup> paragraph, page 12). Said arguments have been answered in detail in sections 6 and 8-13 of the last Office Action (10/07/05). The only new argument presented is that DeSimone is "merely directed to a rebounded foam pad or

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underlayment" since the reference teaches that "a woven or unwoven fabric such as a carpet backing fabric can be one of the outer layers attached to the rebounded foam" (Amendment, page 11, lines 8-11). The examiner respectfully disagrees. As noted by applicant, DeSimone teaches a rebond sandwich structure wherein on of the outer layers may be a carpet backing fabric. As such, one skilled in the art would readily understand that said rebond foam is adhered directly to the carpet backing as a cushion layer rather than as a separate, unattached foam pad or underlayment. Therefore, applicant's argument is found unpersuasive and the above rejection stands.

#### Conclusion

5. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the

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examiner should be directed to Cheryl Juska whose telephone number is 571-272-1477. The examiner can normally be reached on Monday-Friday 10am-6pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached at 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

7. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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